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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/735,586	12/12/2000	Tyler Peppel	OOMP0001C	7217

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[REDACTED] ART UNIT      [REDACTED] PAPER NUMBER

2132

DATE MAILED: 08/28/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)	
	09/735,586	PEPPEL, TYLER	
	Examiner Benjamin E Lanier	Art Unit 2132	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

1) Responsive to communication(s) filed on 12 December 2000

2a) This action is FINAL.                  2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

4) Claim(s) 1-25 is/are pending in the application.

  4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5) Claim(s) \_\_\_\_\_ is/are allowed.

6) Claim(s) 1-25 is/are rejected.

7) Claim(s) \_\_\_\_\_ is/are objected to.

8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on 12 December 2000 is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11) The proposed drawing correction filed on \_\_\_\_\_ is: a) approved b) disapproved by the Examiner.  
 If approved, corrected drawings are required in reply to this Office action.

12) The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

  a) All    b) Some \* c) None of:  
     1. Certified copies of the priority documents have been received.  
     2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
     3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  
 a) The translation of the foreign language provisional application has been received.

15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

1) Notice of References Cited (PTO-892)                  4) Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_.  
 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)                  5) Notice of Informal Patent Application (PTO-152)  
 3) Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_.                  6) Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

2. The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) do not apply to the examination of this application as the application being examined was not (1) filed on or after November 29, 2000, or (2) voluntarily published under 35 U.S.C. 122(b). Therefore, this application is examined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

3. Claims 1-7, 9, 10, 13-17, 19, 20, 22, and 25 are rejected under 35 U.S.C. 102(e) as being anticipated by Smith, U.S. Patent No. 5,533,124. Referring to claims 1, 2, 5, 6, 9, 13, 14, 15, 19 and 25, Smith discloses executable program code under the control of a processor/controller (computer code segment embodied in tangible medium) (Col. 5, lines 31-33), digital data (digital content) (Col. 5, line 51), software that causes trading card data that has been stored to be cleared or deleted (supports content scarcity and content authenticity) (Col. 3, lines 24-34), a copy protection scheme using encryption (lock and key mechanism) (Col. 2, lines 31-44), data for producing graphics, written text, sound, and video (graphic identification code and multimedia) (Col. 2, lines 13-17), interactive areas used to provide different graphics and multimedia (Col. 3,

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lines 13-15), and a PC (Col. 5, line 12), trading card software (Col. 5, line 27), input devices (Col. 5, line 27), and a display (Col. 5, line 30).

Referring to claims 3 and 16, Smith discloses a system comprising RAM (Col. 2, line 52), hard disk (Col. 9, line 5), or other disk drive (Col. 8, line 64).

Referring to claims 4 and 17, Smith discloses a copy protection scheme where the trading card data will be deleted after quitting the program (Col. 9, lines 19-22).

Referring to claim 10, Smith discloses data that could include any sports player as well as any other individual or character that has become sufficiently famous (Col. 9, lines 23-26).

Referring to claim 22, Smith discloses data that is intended to be exchanged between users onto removable media (Col. 5, lines 54-59).

Referring to claims 7 and 20, Smith discloses individual data that is associated with a certain player or character that can be packaged together (Col. 2, lines 10-13).

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 8, 18 and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Smith, U.S. Patent No. 5,533,124, in view of Cooper, U.S. Patent No. 5,757,907. Referring to claims 8, 18 and 21, Smith discloses executable program code under the control of a processor/controller (computer code segment embodied in tangible medium) (Col. 5, lines 31-33), digital data (digital content) (Col. 5, line 51), software that causes trading card data that has

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been stored to be cleared or deleted (supports content scarcity and content authenticity) (Col. 3, lines 24-34), a copy protection scheme using encryption (lock and key mechanism) (Col. 2, lines 31-44), data for producing graphics, written text, sound, and video (graphic identification code and multimedia) (Col. 2, lines 13-17), interactive areas used to provide different graphics and multimedia (Col. 3, lines 13-15), and a PC (Col. 5, line 12), trading card software (Col. 5, line 27), input devices (Col. 5, line 27), and a display (Col. 5, line 30). Smith does not disclose executable program code that has a trial mode or trial number of sessions. Cooper discloses program code that has a trial mode defined by either a timer, or a counter (Col. 8, lines 38-45). It would have been obvious to one of ordinary skill in the art at the time the invention was made to include a time trial on the executable program code of Smith in order to reduce unnecessary risks of piracy or unauthorized utilization beyond the trial interval as taught in Cooper (Col. 2, lines 26-31).

6. Claims 11 and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Smith, U.S. Patent No. 5,533,124, in view of Welsh, U.S. Patent No. 4,970,666. Smith discloses executable program code under the control of a processor/controller (computer code segment embodied in tangible medium) (Col. 5, lines 31-33), digital data (digital content) (Col. 5, line 51), software that causes trading card data that has been stored to be cleared or deleted (supports content scarcity and content authenticity) (Col. 3, lines 24-34), a copy protection scheme using encryption (lock and key mechanism) (Col. 2, lines 31-44), data for producing graphics, written text, sound, and video (graphic identification code and multimedia) (Col. 2, lines 13-17), interactive areas used to provide different graphics and multimedia (Col. 3, lines 13-15), and a PC (Col. 5, line 12), trading card software (Col. 5, line 27), input devices (Col. 5, line 27), and a

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display (Col. 5, line 30). Smith does not disclose a digital content library or album of computer code. Welsh discloses an image library containing a collection of images (Col. 3, lines 6-8). It would have been obvious to one of ordinary skill in the art at the time the invention was made to include the image library in the executable code system of Smith because the library would enable the user to select additional image elements from the image library as taught in Welsh (Col. 3, lines 6-19).

7. Claim 23 is rejected under 35 U.S.C. 103(a) as being unpatentable over Smith, U.S. Patent No. 5,533,124, in view of Lindsey, U.S. Patent No. 5,063,507. Referring to claim 23, Smith discloses executable program code under the control of a processor/controller (computer code segment embodied in tangible medium) (Col. 5, lines 31-33), digital data (digital content) (Col. 5, line 51), software that causes trading card data that has been stored to be cleared or deleted (supports content scarcity and content authenticity) (Col. 3, lines 24-34), a copy protection scheme using encryption (lock and key mechanism) (Col. 2, lines 31-44), data for producing graphics, written text, sound, and video (graphic identification code and multimedia) (Col. 2, lines 13-17), interactive areas used to provide different graphics and multimedia (Col. 3, lines 13-15), and a PC (Col. 5, line 12), trading card software (Col. 5, line 27), input devices (Col. 5, line 27), and a display (Col. 5, line 30). Smith does not disclose exchanging of computer code segments online. Lindsey discloses a terminal that performs online transactions of information (Col. 9, lines 16-28). It would have been obvious to one of ordinary skill at the time the invention was made to enable the system of Smith to exchange computer code over the Internet in order to increase the speed of the overall trading and acquisition process as taught in Lindsey (Col. 2, lines 30-37).

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8. Claim 24 is rejected under 35 U.S.C. 103(a) as being unpatentable over Smith, U.S. Patent No. 5,533,124, in view of Moen, U.S. Patent No. 5,592,537. Referring to claim 24, Smith discloses executable program code under the control of a processor/controller (computer code segment embodied in tangible medium) (Col. 5, lines 31-33), digital data (digital content) (Col. 5, line 51), software that causes trading card data that has been stored to be cleared or deleted (supports content scarcity and content authenticity) (Col. 3, lines 24-34), a copy protection scheme using encryption (lock and key mechanism) (Col. 2, lines 31-44), data for producing graphics, written text, sound, and video (graphic identification code and multimedia) (Col. 2, lines 13-17), interactive areas used to provide different graphics and multimedia (Col. 3, lines 13-15), and a PC (Col. 5, line 12), trading card software (Col. 5, line 27), input devices (Col. 5, line 27), and a display (Col. 5, line 30). Smith does not disclose phone numbers within the computer code. Moen discloses a telecommunication messaging service with built in phone numbers to provide quick communication (Col. 3, lines 41-60). It would have been obvious to one of ordinary skill in the art at the time the invention was made to include phone numbers into the program code of Smith in order to permit a phone messaging by a user to a phone number included within the program code as taught in Moen (Col. 3, lines 41-60).

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Benjamin E Lanier whose telephone number is (703)-305-7684. The examiner can normally be reached on M-F from 8:00am to 4:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gilberto Barron, can be reached on (703)-305-1830. The fax phone number for the

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organization where this application or proceeding is assigned is (703)-746-7239, after final  
(703)-746-7238, or non-official/draft (703)-746-7240.

Any inquiry of a general nature or relating to the status of this application or proceeding should  
be directed to the receptionist whose telephone number is 703-305-3900.

*Matthew A. Smithers*  
Matthew Smithers  
Art Unit 2132  
Primary Examiner